



STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board

Ben Ysursa, Secretary of State

Lawrence G. Wasden, Attorney General

Donna M. Jones, State Controller

Tom Luna, Superintendent of Public Instruction

George B. Bacon, Secretary to the Board

Final Minutes Regular Land Board Meeting June 12, 2007

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, June 12, 2007 in Boise, Idaho. The meeting began at 9:12 a.m. in the second floor courtroom of the Borah Post Office building. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Ben Ysursa – via conference phone

Honorable Attorney General Lawrence G. Wasden

Honorable State Controller Donna M. Jones

Honorable Superintendent of Public Instruction Tom Luna

Secretary to the Board Director George Bacon

• **CONSENT**

A motion was made by Attorney General Wasden to approve the Consent Agenda in its entirety. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

1. **Director's Report** – approved

- A. Interest Rate on Department Transactions – May 2007
- B. Timber Sale Official Transactions - April 24, 2007 through May 30, 2007
- C. Timber Sale Activity Report – April 2007; May 2007
- D. Legal Matter Summary
- E. Bureau of Surface and Mineral Resources, Official Transactions – April 2007
- F. Bureau of Real Estate, Official Transactions – Easement – April 2007
- G. Bureau of Real Estate, Official Transactions – Land Sale – April 2007

2. **Timber Sales** – *Staffed by Roger Jansson, Operations Chief-North, and Steve Douglas, Operations Chief-South* – approved

NORTH OPERATIONS

A. Midbugs Over	CR-10-0351	1,035 MBF	Bonner
B. Horton Hunt Divide	CR-10-0362	4,200 MBF	Bonner
C. Caribou Chop	CR-10-0371	7,300 MBF	Bonner
D. Beaver Dam	CR-21-3013	3,300 MBF	Boundary
E. Log Power	CR-30-0490	7,270 MBF	Shoshone
F. Two-Bit	CR-30-0521	2,270 MBF	Shoshone
G. Stove Creek	CR-41-0023	3,190 MBF	Latah
H. Upper Brush Creek	CR-41-0033	4,525 MBF	Latah

SOUTH OPERATIONS

I.	Dent Garden Poles	CR-40-0796	155 MBF 169,780 LF	Clearwater
J.	Northwest Passage	CR-60-0172	7,060 MBF	Boise
K.	West Dry Buck	CR-60-0174	2,900 MBF	Boise

DISCUSSION: Director Bacon highlighted sales C and D. Both sales require helicopter yarding. The Department is requesting the Board's permission to reappraise and offer the sales again without returning to the Board should the sales not sell at the first offering. This is a tactic the Department has used in the past with perishable timber. While this timber is not perishable, the timber market is declining. The benefit of not returning to the Board is potentially another month to get the sales turned around. If the sales do not sell, and the Department finds it is because of reasons other than market conditions, the Department would likely return to the Board.

3. Request from the Idaho Park and Recreation Board to Authorize the Grant of an Easement at the Boise IDPR Headquarters – Staffed by Steve Strack, Office of the Attorney General – approved

RECOMMENDATION: That the Board authorize the grant of a permanent easement to United Water Idaho for the construction of a pump house at IDPR headquarters property.

BOARD ACTION: Approved.

4. Request from the Idaho Park and Recreation Board to Authorize the Endowment Fund Investment Board to Manage Investment of an Endowment – Ritter Island Unit of Thousand Springs State Park – Staffed by Steve Strack, Office of the Attorney General – approved

RECOMMENDATION: That the Board authorize the Endowment Fund Investment Board to manage the Ritter Island Endowment Fund under such terms as the Endowment Fund Investment Board and the Parks Board determine are appropriate.

DISCUSSION: Controller Jones noted that the Endowment Board will be able to manage this additional responsibility with its current staff.

BOARD ACTION: Approved.

5. State Participation as a Member of: [Staffed by Ron Litz, Assistant Director, Forestry and Fire] – approved

- A. Southern Idaho Timber Protective Association
- B. Clearwater-Potlatch Timber Protective Association

DEPARTMENT RECOMMENDATION: That the Board authorize the Department to continue to participate as a member of the Southern Idaho Timber Protective Association.

BOARD ACTION: Approved.

6. Authorization for Issuance of Deficiency Warrants to Pay Fire Suppression Costs in Fiscal Year 2008 – Staffed by Brian Shiplett, Chief, Bureau of Fire Management – approved

DEPARTMENT RECOMMENDATION: That the Board authorize the Department to issue deficiency warrants necessary to pay fire suppression costs beyond the \$131,300 appropriation for fiscal year 2008.

BOARD ACTION: Approved.

7. Minutes – approved

A. Regular Land Board Meeting – May 8, 2007

• **REGULAR**

8. Endowment Fund Investment Board – Presented by Larry Johnson, Manager of Investments

- A. EFIB Manager's Report
- B. Investment Report

DISCUSSION: Mr. Johnson reported that:

- fiscal year-to-date returns are 17% through the end of May;
- the Agricultural College Endowment Fund has moved to 100% bonds;
- an investment consultant, Callan Associates, has been selected;
- managers are performing as expected.

BOARD ACTION: A motion was made by Controller Jones to move that the report be accepted as presented. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

9. Acquisition of St. Maries Compound – Presented by Kathy Opp, Division Administrator, Support Services – withdrawn

DEPARTMENT RECOMMENDATION: That the Board approve the Department's request to encumber one hundred and twenty thousand dollars (\$120,000) from the 2007 or 2008 budget, as available.

DISCUSSION: Governor Otter asked if the Department does not plan to acquire this property, will the Department look for a different place or continue to lease the current site. Director Bacon stated the Department will review different purchase options. Governor Otter asked about the difference in appraisals. Director Bacon stated the appraisals could be anywhere from \$300,000 for residential development and \$600,000 for commercial development. The appraisal used by the Department was completed several years ago and was inflated by the Consumer Price Index. However land values are rising rapidly in certain areas of the state. Governor Otter asked if the Department is anticipating the rent increasing to reflect the higher return on investment for the city. Director Bacon stated the city may not have the option to increase the rent during the lease term.

BOARD ACTION: By unanimous consent, this agenda item was withdrawn.

10. IDL Executive Staff Reorganization – Presented by George Bacon, Director

DEPARTMENT RECOMMENDATION: Approve the Director's request to initiate phase one of the proposed reorganizational plan, and direct the Department to take the necessary steps to achieve phase two as soon as reasonably practicable.

DISCUSSION: Attorney General Wasden asked how members of the public have received this proposal. Director Bacon stated he has discussed the proposal with a couple of customers. The timber industry most notably said they would be supportive. Director Bacon stated he does not believe the public will see any change because the public interfaces with field staff, and those changes will not be made at this time.

Governor Otter asked if the proposed Deputy Director position will be exempt status. Director Bacon stated the deputy director position will be an exempt, non-classified position serving at the will of the Director.

Attorney General Wasden noted that Director Bacon has received some very specific directives from the Board about how to go about change at the Department of Lands preparing for the future. He asked Director Bacon if this proposal is a significant part of the plan to make those changes. Director Bacon stated yes. He added that last month the Board finalized his work plan, and this was one of the items specified in the plan.

BOARD ACTION: A motion was made by Controller Jones to approve the Director's request to initiate Phase I of the proposed reorganizational plan. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

11. Subcommittee Report – Review of Lease Terms and Floathome Moorage Rate Structure – Presented by Donna Jones, Subcommittee Chair

SUBCOMMITTEE RECOMMENDATION: (1) The subcommittee recommends that the Board rescind the second paragraph of the July 6, 1999 "Maintenance and Moorage Rate Facility Policy" related to floathome moorage rates, thereby allowing the market and individual commercial operator's business situations to establish floathome moorage rates; (2) The subcommittee recommends that if the portion of the Board policy related to floathome moorage rates is rescinded, that the remaining portions of the policy stay in place under the new title of "Marina Maintenance Policy" in order to protect public trust values; (3) The subcommittee also recommends that the Board direct the Department to issue a letter to the floathome owners and commercial marina operators clarifying the Board's position on this matter and its authority relative to the Floating Homes Residency Act.

DISCUSSION: A transcript is available upon written request to Susan Terry, Idaho Department of Lands, 954 West Jefferson, Boise, Idaho 83720-0050, (208) 334-0242, sterry@idl.idaho.gov.

BOARD ACTION:

- A motion was made by Controller Jones to move the recommendations as presented at the May 8, 2007 regular meeting of the Board. Attorney General Wasden seconded the motion.
- During further discussion of the motion, Attorney General Wasden suggested that the Board consider adding a directive to the Department to include reasonableness language into the contracts to allow the Board enforcement ability. Secondly, Attorney General Wasden suggested that this matter be addressed jointly with the Legislature, recognizing the respective responsibilities and authorities of the Board and the Legislature, in the hope that a tolerable solution may be found.
- Superintendent Luna commented that if the Board is seeking further discussions, he would feel more comfortable reviewing the products of those discussions as a total package.
- Controller Jones asked Superintendent Luna if he was amending the motion. Superintendent Luna stated yes. For clarification, Governor Otter restated Superintendent Luna's amended motion that the Board adopt number one of the recommendations made at the last Board meeting with the amendment thereto that the Board review the limitations imposed by the State thereby limiting the market place and the availability of moorages. Superintendent Luna stated by his amendment he was recommending that the Board not adopt anything at this time. Superintendent Luna stated he wants to review the whole package in one series of recommendations and not one part now and then more later.
- Attorney General Wasden asked permission of the maker of the motion to withdraw his second and to make a separate motion. Controller Jones consented. Governor Otter noted the motion has been withdrawn.

- Attorney General Wasden moved to direct the Department to implement a policy of reasonable rates through inclusion of appropriate language in future marina leases and to request that the Legislature consider amendments to the Floathome Residency Act to address issues of fairness in floathome rental rates. Controller Jones seconded the motion.
- Governor Otter remarked that he would also like to have some definition indicating what needs to be considered when the term reasonableness is addressed.
- Superintendent Luna suggested an amendment to the motion to include a direction to the Department to perform an economic study of the forces in play when it pertains to the floathome and moorage relationship.
- Secretary of State Ysursa suggested including in that study the rate the State could be charging marina owners.
- Attorney General Wasden stated he has no objection to the amendment of his motion to include that the Department of Lands perform an economic analysis of the moorage rates and floathome circumstances that exist throughout the state. He asked Controller Jones if she would second the amended motion. Controller Jones seconded the amended motion.
- The amended motion carried on a vote of 5-0.

12. Cottage Site Lease Terms – *Presented by Mike Murphy, Chief, Bureau of Surface and Mineral Resources*

DEPARTMENT RECOMMENDATION: That the Board approve the draft lease document for use with the two new cottage site leases at Priest Lake set for auction in August 2007.

DISCUSSION: A transcript is available upon written request to Susan Terry, Idaho Department of Lands, 954 West Jefferson, Boise, Idaho 83720-0050, (208) 334-0242, sterry@idl.idaho.gov.

BOARD ACTION: Attorney General Wasden moved that the Board delay the determination on the cottage site lease terms for the period of one month. During that delay, Attorney General Wasden requested that the proposed lease be reviewed by the Contracts and Administrative Law Division of the Office of the Attorney General. This Division has expertise in lease terms. Secondly, Attorney General Wasden moved that the Department provide public input, primarily from the Priest Lake Lessee Association, on the proposed lease terms. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

13. Request for Adoption of Formal Policy Regarding Reservation of 25-foot Wide Public Use Right-of-Way Along Navigable Rivers – *Presented by George Bacon, Director*

DEPARTMENT RECOMMENDATION: Consistent with the recommendation as presented at the March 13, 2007 Board meeting, direct the Department to reserve a 25-foot wide public use right-of-way along navigable rivers when issuing Disclaimers of Interest, while allowing the Department to propose alternatives to the Land Board due to unusual circumstances. Alternatives to the 25-foot wide public use right-of-way will be presented to the Land Board for approval.

DISCUSSION: A transcript is available upon written request to Susan Terry, Idaho Department of Lands, 954 West Jefferson, Boise, Idaho 83720-0050, (208) 334-0242, sterry@idl.idaho.gov.

BOARD ACTION: A motion was made by Attorney General Wasden to move the adoption of the suggested formal policy regarding reservation of a 25-foot wide public use right-of-way along navigable rivers. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 3-2, with Governor Otter and Superintendent Luna voting nay.

14. Wood River Land Trust Land Exchange – *Presented by Perry Whittaker, Chief, Bureau of Real Estate*

DEPARTMENT RECOMMENDATION: That the Board direct the Department to work with the WRLT to complete this exchange. Completion of the exchange requires the expenditure of \$50,000 of land bank funds to equalize the exchange values.

DISCUSSION: None.

BOARD ACTION: A motion was made by Controller Jones to move the Department's recommendation. Superintendent Luna seconded the motion. The motion carried on a vote of 5-0.

- **INFORMATION**

No Land Board action is required on the Information Agenda.

15. Conflicted Grazing Leases – *Staffed by Tracy Behrens, Program Manager, Grazing/Cropland*

DISCUSSION: Attorney General Wasden suggested that the Board form a subcommittee to examine the process of grazing lease conflict auctions. He noted that while this review is part of the Board's specific assignment to Director Bacon, he believes a subcommittee review may help the Board provide guidance to the Department as well as preparing the Board to address this matter in the future.

Governor Otter agreed with Attorney General Wasden's suggestion and appointed Attorney General Wasden as the Chairman of the subcommittee. In addition, Governor Otter volunteered to serve as a member of the subcommittee. Director Bacon informed the Board that the Department has formed a Livestock Workgroup that this subcommittee could tie into. The Livestock Workgroup is made up of representatives of the grazing industries, the Wool Growers and the Cattlemen's Association, as well as the University of Idaho and the Farm Bureau.

16. 2008 Cottage Site Rent Adjustments – *Staffed by Mike Murphy, Chief, Bureau of Surface and Mineral Resources*

DISCUSSION: A transcript will be available upon written request to Susan Terry, Idaho Department of Lands, 954 West Jefferson, Boise, Idaho 83720-0050, (208) 334-0242, sterry@idl.idaho.gov.

Governor Otter noted that during public testimony a suggestion was made that the Board appoint a subcommittee to review this matter further. In light of that suggestion, Governor Otter appointed Secretary of State Ysursa to serve as the Chairman of the subcommittee with Superintendent Luna appointed to serve as a subcommittee member.

17. Fire Protection Program Overview – *Staffed by Jim Newton, Fire Business Program Manager*

At 12:35 p.m. Attorney General Wasden left the meeting. At 12:37 p.m. Governor Otter left the meeting. Controller Jones presided in Governor Otter's absence.

At 12:40 p.m., Controller Jones requested a motion to resolve into Executive Session. A motion was made by Superintendent Luna to resolve into Executive Session. Governor Otter returned to the meeting at 12:41 p.m. The motion carried by unanimous consent of those present, and the Board resolved into Executive Session.

- **EXECUTIVE SESSION**

A. To Consider Personnel Matters [[Idaho Code § 67-2345\(1\)\(b\)](#)]

- B. To Acquire An Interest in Real Property which is not owned by a Public Agency** [[Idaho Code § 67-2345\(1\)\(c\)](#)]
C. To Consider Records that are Exempt from Disclosure [[Idaho Code § 67-2345\(1\)\(d\)](#)]
D. To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation [[Idaho Code § 67-2345\(1\)\(f\)](#)]

At 12:50 p.m. a motion was made by Superintendent Luna to resolve into Regular Session. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 4-0, with Attorney General Wasden absent for this vote.

There being no further business to come before the Board, the meeting adjourned at 12:50 p.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ C. L. "Butch" Otter
President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Ben Ysursa
Ben Ysursa
Secretary of State

/s/ George B. Bacon
George B. Bacon
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the July 10, 2007 regular Land Board meeting.